CR No. 246 of 2003.

23..11.2007 Present: Shri B.S.Attri, Advocate with Smt. Santi Devi Judgment debtor/petitioner in person.

Shri Anil Tanwar, Advocate, with Smt.Lajwanti Devi, decree – holder/respondent in person.

This revision petition arises out of a long standing litigation between the parties.

The brief facts of the case are that Shawnu filed a suit through his General Attorney Smt. Santi Devi for permanent prohibitory injunction. This suit was decreed against the present petitioners (Judgment debtors). The learned trial court vide its decree restrained the judgment debtors from interfering or blocking the kuhal comprised in khasra No. 63 and natural stream of the water flowing in khasra No.64 and also passed a decree for mandatory injunction directing the judgment debtors/defendants to remove the debris from the nullah in the aforesaid khasra numbers and throwing debris in the nullah which falls in khasra No.65 in village Mauza Kiar.

There is no dispute with regard to the first two reliefs. The dispute now relates to the third relief only wherein the judgment debtors were issued mandatory direction to remove the debris from the nullah. In execution petition execution of this part of the order was sought for and the learned trial court held that the judgment debtors are intentionally and willfully disobeying the decree dated

29.4.1989. Aggrieved against this order, the JDs are before this Court.

The contention of the petitioners in respect of the third relief is that the limitation to execute a decree for mandatory injunction is only three years and therefore, this relief could not be claimed in execution petition after the period of limitation.

On the last date of hearing, I had impressed upon the learned counsel for the parties that they should try to settle the matter amicably and for this purpose the parties were called for today. The position has been explained to the parties.

I am not going into the merits of the case. Lajwanti, judgment-debtor No.1, who is present in person states that she and her children will have no objection if the decree-holder(s) clear the debris, stones etc. from the nullah falling in khasra No.65 subject to the condition that the property of the judgment debtors is not damaged.

Smt. Santi Devi , General attorney of the decree holder(s) is also present and states that in case she is allowed to clean the nullah and the judgment debtors do not obstruct her to clean the same, she will herself remove the debris, stones etc. which are blocking the nullah at her own costs and expense.

The statements of the parties and that of Shri B.S.Attri, Advocate, appearing on behalf of respondents 2 to 5 have been recorded separately.

In view of the settlement arrived at between the parties, the order of the learned court below is set aside and the revision petition is disposed of. The decree holder(s) shall have the right to clean the nullah falling in khasra No.65 and remove all stones, debris etc. as long as they do and shall not damage the property of the decree holder(s) . The judgment-debtors/petitioners are directed not to interfere or cause any obstruction in the cleaning/clearing of the nullah and removal of debris, stones etc. in the nullah by the decree holder (s).

The revision petition is disposed of in the aforesaid terms.

November 23, 2007. (Deepak Gupta), J.

s.